

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

DUSTIN C. WILSON,
Plaintiff,

v.

LT. TINCHER, *et al.*,
Defendants.

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Civil Action No. 7:15cv00134

MEMORANDUM OPINION

By: Norman K. Moon
United States District Judge

Dustin C. Wilson, a Virginia inmate proceeding *pro se*, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. The court conditionally filed the complaint and advised Wilson that he must notify the court in writing immediately upon his transfer or release and provide the court with a new address. The court warned Wilson that failure to notify the court of a change of address would result in dismissal of his case. On August 15, 2016, an order that was mailed to Wilson at his last known address was returned to the court as undeliverable and marked “Inmate Released.” Wilson has not provided the court with an updated address and, therefore, the court has no means of contacting him. Accordingly, I will dismiss Wilson’s complaint without prejudice for failure to comply with the court’s order.¹

ENTER: This 29th day of August, 2016.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE

¹ Further, Wilson failed to respond to defendant Lt. Tinchler’s motion for summary judgment. On March 18, 2016, Lt. Tinchler, the only remaining defendant to this action, filed a motion for summary judgment and, on March 21, 2016, the court issued a notice pursuant to *Roseboro v. Garrison*, 528 F.2d 309, 310 (4th Cir. 2005). The notice did not come back to the court as undeliverable. The notice gave Wilson twenty-one days to file a response to the motion and advised Wilson that if he did not respond, the court would “assume that plaintiff has lost interest in the case, and/or that plaintiff agrees with what the defendant states in their responsive pleading(s).” The court further advised Wilson that if he wished to continue with the case, it was “necessary that plaintiff respond in an appropriate fashion” and that if he failed to file some response within the time allotted, “the court may dismiss the case for failure to prosecute.” Thereafter, Wilson filed a notice of interlocutory appeal, which the United States Court of Appeals for the Fourth Circuit dismissed. Wilson did not file a response to the motion for summary judgment. On August 15, 2016, the court ordered Wilson to show cause, within seven days, why this action should not be dismissed for failure to prosecute. That order was returned to the court as undeliverable and indicated that Wilson has been released from incarceration.